



# Resource Management Act Reform Weekly Update

## Whakanaketanga Whakarite Rawa Ahuarangi ā-Wiki

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For the week beginning 5 February 2024

Hon. Chris Bishop, Minister Responsible for Resource Management Act Reform

## Wellington City Council Intensification Plan Change Process Update

The Wellington City Council Independent Hearings Panel (IHP) has just released its recommendations on the Wellington City Council Intensification Planning Instrument (IPI). This is the plan change to implement the National Policy Statement on Urban Development (NPS-UD) and the medium density residential standards (MDRS)

The IHP support the District Plan's general approach to growth and intensification (as notified) but do not agree that the Johnsonville rail line (which services a number of stations in Ngaio, Khandallah and Crofton Downs) should be defined as a 'Rapid Transit Service' under the NPS-UD. This means that 5 minute walking catchments allowing residential development of at least six storeys in these smaller centres will not apply. The medium density residential standards will apply (e.g. up to three dwellings of three storeys height as a permitted activity).

The IHP also recommended a number of changes to walking catchment boundaries in response to topographical and natural hazard constraints in Thorndon, Aro Valley, Mt Cook, Newtown, Kelburn, Johnsonville and Kilbirnie

There is local media interest in these matters as they have been among the most controversial issues during the development of the 30 year spatial plan and district plan review process.

The Council will make their decision on this IHP recommendation report on 14 March. If the Council does not support the IHP recommendations it will be referred to the Minister for the Environment as the final decision maker under the RMA.

We will keep you informed about how these issues play out as well as other IPI processes in other parts of the country.

Pages 2 and 5 to 15 are out of scope of the request.

**From:** [Bridget Murdoch](#)  
**To:** [Sarah King \[EXTERNAL\] \(PARLIAMENT\)](#)  
**Cc:** [RMReform](#); [Nathan Stocker](#); [Lucy Knowles](#); [Rebecca Scannell](#)  
**Subject:** Background information on Wellington City Council Intensification planning instrument decisions  
**Date:** Friday, 12 April 2024 3:53:00 pm  
**Attachments:** [Memo .docx](#)  
[Letter to the Minister for the Environment - Alternative WCC PDP ISPP recommendations - Final.pdf](#)  
[BRF-4341 Aide Memoire Process and options for ministerial decisions and interventions on intersification planning instruments - highlighted.docx](#)  
[Appendix 1 Adelaide Road.pdf](#)  
[Appendix 2 Walkable catchment around City Centre Zone and Hay Street.pdf](#)  
[Appendix 3 Character Precincts.pdf](#)  
[Appendix 4 Moir and Hania Street Interface.pdf](#)  
[Appendix 5 Setbacks for 1-3 residential units.pdf](#)  
[Appendix 6 Johnsonville Line and its walkable catchments.pdf](#)  
[Appendix 7 Kāpiti Line walkable catchments.pdf](#)  
[Appendix 8 Heritage buildings.pdf](#)  
[Appendix 9 Kilbirnie plan change.pdf](#)  
[Appendix 10 Hydraulic neutrality in the CCZ.pdf](#)

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Hi Sarah,

As discussed with Becs here is the background information on Wellington City Council intensification planning instrument decisions. The hard copies are currently on the way to you.

Bridget



To:	Hon Chris Bishop, Minister for RMA Reform
From:	Rebecca Scannell, Programme Director, Urban and Infrastructure Policy
Date:	12 April 2024
Re:	Background information on Wellington City Council Intensification planning instrument decisions

### **Purpose**

This memo provides background information to advice you will receive to assist in making decisions on the rejected recommendations of the Wellington Independent Hearings panel on Wellington City Council's intensification planning instrument.

We will provide additional information with our advice to you, however the letter from Wellington City Council (attachment 1) includes links to further relevant information if you view it electronically.

### **Information provided:**

1. Wellington City Council's letter of referral of decisions including reasons - *Wellington City Proposed District Plan Intensification Planning Instrument: rejected Independent Hearings Panel recommendations and alternatives to the Minister for the Environment*
2. Excerpts from the Independent hearings panel report, refer to the table on the next page
3. A copy of BRF-4341 - *Adie Memoir: Process and options for ministerial decisions and interventions on intensification planning instruments* with relevant sections shaded grey.

Table 1 Relevant IHP report sections

Appendix	Rejected IHP recommendation	Council alternative recommendation	Relevant IHP report paragraphs
Appendix 1: Adelaide Road	Zone a strip of land centred along Adelaide Road as Mixed Use Zone (MUZ) instead of City Centre Zone (CCZ) as notified.	Retains the City Centre zoning and the associated zone-based provisions and associated spatial layers as it relates to Adelaide Road between Rugby St and John Street in the notified 2022 Proposed District Plan.	<a href="#">Report 4B pp 6-7, 25-30</a>
Appendix 2: Walkable catchment around City Centre Zone and Hay Street	<p><i>Walkable catchment around City Centre Zone:</i> Base implementation of Policy 3(c)(ii) of the NPS-UD on a 15 minute walkable catchment from the City Centre Zone (CCZ) with amendments based on a range of factors that influence the suitability for walking.</p> <p><i>Hay Street:</i> The City Centre Zone (CCZ) walkable catchment should extend up Hay Street to numbers 7 and 8. Baring Street should also be excluded from the walkable catchment. Consequentially, the Medium Density Residential Zone should apply further up Hay Street.</p>	<p><i>Walkable catchment around City Centre Zone:</i> Base implementation of Policy 3(c)(ii) of the NPS-UD on a 15 minute walking catchment from the CCZ without incorporating the additional matters considered by the IHP.</p> <p>Apply consequential zoning and height limits within this area.</p> <p>Introduce a new requirement for properties in Kelburn to not intrude into viewshafts from the top of the Cable Car.</p> <p><i>Hay Street:</i> The High Density Residential Zone and maximum heights limits are applied to Hay Street in the same way as other areas within a walking catchment of the City Centre Zone without any Hay Street exemption.</p>	<p><a href="#">Report 1A pp 5-7, 60-74, 86-90</a>  <a href="#">Report 2A pp 174-179, 183-184</a>  <a href="#">Report 4C pp 101-102</a>  <a href="#">Report 3B pp 30-31</a></p>
Appendix 3: Character Precincts	Extend the spatial application of the character precincts to retain 67% of the character precincts of	The extent of character precincts remains the same as that in the notified 2022 Proposed District Plan (PDP).	<p><a href="#">Report 2B pp 29-48, 85</a>  <a href="#">IHP Report 2B Appendix 1.1 - Hobson Street and Hobson Crescent</a>  <a href="#">IHP Report 2B Appendix 1.2 - Thorndon West</a></p>

Appendix	Rejected IHP recommendation	Council alternative recommendation	Relevant IHP report paragraphs
	the Operative District Plan (ODP).	Consequential on the above relief, the maximum building height within the Berhampore Neighbourhood Centre Zone to retain the notified 22m limit.	<a href="#">IHP Report 2B Appendix 1.3 - Kelburn</a> <a href="#">IHP Report 2B Appendix 1.4 - The Terrace</a> <a href="#">IHP Report 2B Appendix 1.5 - Aro Valley</a> <a href="#">IHP Report 2B Appendix 1.6 - Holloway Road</a> <a href="#">IHP Report 2B Appendix 1.7 - Mount Victoria</a> <a href="#">IHP Report 2B Appendix 1.8 - Mount Cook</a> <a href="#">IHP Report 2B Appendix 1.9 - Newtown</a> <a href="#">IHP Report 2B Appendix 1.10 - Berhampore</a>
Appendix 4: Moir and Hania Street Interface	Reduce the height limit and the height to boundary controls that apply to properties on Hania Street immediately to the west of the Moir Street properties. We recommend that the height standard for the properties adjoining the Moir Street vicinity (between and including 45 and 21 Hania Street) be reduced to 15 metres as sought by the submitters.	The height in relation to boundary controls and building height settings in the City Centre Zone managing the interface of Hania and Moir Streets be returned back to the notified 2022 Proposed District Plan numbers (with the retention of Independent Hearing Panel recommendation for CCZ-S1 to be height thresholds, not maximum heights).	<a href="#">Report 4B pp 6, 11-13</a>
Appendix 5: Setbacks for 1-3 residential units	Require minimum front and side yard setbacks for developments of up to three residential units in Medium and High Density Residential Zones.	Not require minimum front and side yard setbacks for developments of up to three residential units in Medium and High Density Residential Zones.	<a href="#">Report 2A pp 65-68, 124, 134-136</a>
Appendix 6: Johnsonville Line and its	The Johnsonville Line <i>not</i> be classified as a rapid transit service. Consequently, Policy	The Johnsonville Line be classified as a rapid transit service. Consequently, Policy 3(c), which requires intensification within walkable catchments of rapid transit	<a href="#">Report 1A pp 47-63, 73</a> <a href="#">Report 2A pp 65-68, 124, 134-136</a>

Appendix	Rejected IHP recommendation	Council alternative recommendation	Relevant IHP report paragraphs
walkable catchments	3(c), which requires intensification within walkable catchments of rapid transit stops, <i>not</i> be applied to the areas within a walkable catchment of stops along the Johnsonville Line.	stops, be applied to areas within a 10-minute walkable catchment of stops along the Johnsonville Line.  The Johnsonville, Kāpiti and Hutt/Melling Lines be added to the definition of rapid transit service, and the stops along these three Lines added to the definition of rapid transit stops.	
Appendix 7: Kāpiti Line walkable catchments	Apply a 10-minute walkable catchment around the Tawa Railway Station and to the southwest and west of the Redwood Railway Station  Apply a 5-minute walkable catchment around the east and southeast of the Redwood Railway Station, the Linden Station and the Takapu Road Railway Station.	Apply a 10 minute walkable catchment from the train stations of Takapu Road, Redwood, and Linden, based on the Council's walkable catchment analysis and disregarding the additional factors recommended by the IHP (e.g. desirability and topography).  Within this walkable catchment, enable building heights of 6 storeys and zone all residential areas High Density Residential Zone.	<a href="#">Report 1A pp 74-79</a> <a href="#">Report 2A pp 174-179, 183-184</a>
Appendix 8: Heritage buildings	Retain buildings #299 Gordon Wilson Flats, #511 Gas Tank (former), #415 Emeny House (former), #520 Kahn House, #510 Olympus Apartments, #509 Wharenui Apartments, #497 Robert Stout Building, #490 Former Primitive Methodist Church, #366 Johnsonville Masonic Hall, and #120 Our Lady Star of the Sea Chapel and	Remove heritage buildings #299, #511, #415, #520, #510, #509, #497, #490, #366, and #120 from heritage SCHED1.	<a href="#">Report 3A pp 89-93, 95-97, 102-103, 110-112</a>



Appendix	Rejected IHP recommendation	Council alternative recommendation	Relevant IHP report paragraphs
	Stellamaris Retreat House to heritage SCHED1.		
Appendix 9: Kilbirnie plan change	Enable building heights of six storeys within a 10-minute walkable catchment from the Kilbirnie Metropolitan Centre Zone.	Retain the notified building heights and zoning in the Kilbirnie walkable catchment.  Undertake a plan change within one year to give effect to Policy 3(c)(iii) within a walkable catchment of the Kilbirnie centre.	<a href="#">Report 1A pp 5-6, 83-85</a> <a href="#">Report 2A pp 175-176, 180</a>
Appendix 10: Hydraulic neutrality in the CCZ	Exempt the City Centre Zone (CCZ) from Rule THW-R6 (Hydraulic neutrality – four or more residential units and non-residential buildings).	Apply Rule THW-R6 to the City Centre Zone.	<a href="#">Report 5C pp 4-5, 11-13, 15</a>



# Aide memoire: Process and options for ministerial decisions and interventions on intensification planning instruments

Date submitted: 1 March 2024

Tracking number: BRF-4341

Security level: In confidence

MfE priority: Urgent

Actions sought from ministers	
<i>Name and position</i>	<i>Action sought</i>
To Hon Chris BISHOP Minister Responsible for RMA Reform	For noting only

Key contacts at Ministry for the Environment			
<i>Position</i>	<i>Name</i>	<i>Cell phone</i>	<i>First contact</i>
Principal Author	Bridget Murdoch		
Responsible Manager (Acting)	Leah Clark	027 262 9093	✓
General Manager	Liz Moncrieff		

# Process and options for ministerial decisions and interventions on intensification planning instruments

## Purpose

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1. This aide memoire provides you with the process for making decisions on intensification planning instruments (IPIs), as well options for ministerial interventions under the Resource Management Act 1991 (RMA).

## Key messages

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2. Specified territorial authorities (councils) are required to notify IPI decisions on independent hearings panel's (IHP's) recommendations by a date set out in a direction issued by the Minister for the Environment. Councils will notify IPI decisions between 20 August 2023 and 31 December 2025.
3. If a council accepts or rejects any and all of the IHP's recommendations, it must refer the rejected recommendations, its reasons for rejection, and may provide any alternative recommendations to the Minister for the Environment (Schedule 1, Part 6, clause 101).
4. You may then decide whether to accept either the IHP's recommendation or the council's alternative recommendation, if provided (Schedule 1, Part 6, cl105(1)). We will provide you with advice as to which option is more consistent with the requirements of RMA. s 9(2)(h)
5. Although these powers sit with the Minister for the Environment in legislation, it has been agreed that responsibility for these decisions will be transferred to you, as Minister Responsible for RMA Reform.
6. When a decision is referred the Minister must make decisions on referred recommendations.
7. Officials will provide advice to you on a case-by-case basis to support decisions.
8. The Minister for the Environment has other powers under sections 24A and 25A of the RMA. They can use these powers if the relevant council is not exercising or performing any of its functions, powers or duties under the RMA to the extent that the Minister considers necessary to achieve the purpose of the RMA.

## Background and context

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9. You previously received advice Out of Scope [redacted] from The Ministry of Housing and

Urban Development on the Independent Hearings Panel's Recommendations on Wellington City Council's Intensification Planning Instrument [HUD2024-003696].

10. The RMA sets out the process for ministerial decisions on IPIs under the intensification streamlined planning process.
11. Any IHP recommendations accepted by a council become operative after notification. Any rejected recommendations must be referred to the Minister, along with any alternative recommendations if provided by the council.
12. Officials do not know how many decisions you will be required to make, nor the timing and complexity of these. We will provide advice on rejected and any alternative recommendations on a case-by-case basis.
13. Six Councils have completed their intensification streamlined planning processes, so far of the six, Kāpiti Coast District Council is the only council to have rejected any IHP recommendations. Only one recommendation was rejected by the KCDC. This recommendation related to the rezoning of an area from rural lifestyle to residential. In this case the previous Minister for the Environment accepted the recommendation of the IHP.<sup>1</sup>

## Process for ministerial decisions on intensification planning instruments

14. The RMA sets out the process for ministerial decisions on IPIs. The required actions for councils, Ministry officials and the Minister are set out in Figure 1.
15. Officials have prepared a template for councils to record the rejected recommendations, with reasons for rejection, and any alternative recommendations. When received we will review this information as well as:
  - i. the IHP report
  - ii. relevant council reports such as section 42a (officer) reports, and section 32 reports
  - iii. submissions and evidence
  - iv. any other information the IHP and council took into consideration, including any questions or clarification asked by the IHP.
16. Officials will assess this information against the purpose and intent of the NPS-UD and MDRS and provide advice to you on the relevant recommendations.

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<sup>1</sup> The reasons given by the Minister were, the rezoning from lifestyle to residential aligned better with central government direction through the NPS-UD to enable more intensive housing, and is a strategic fit for greenfield development. The site enables 370 dwellings which is significant for the district. The landowners commissioned various technical assessments so the sites features and constraints are well understood and the site could be well-designed through existing processes.

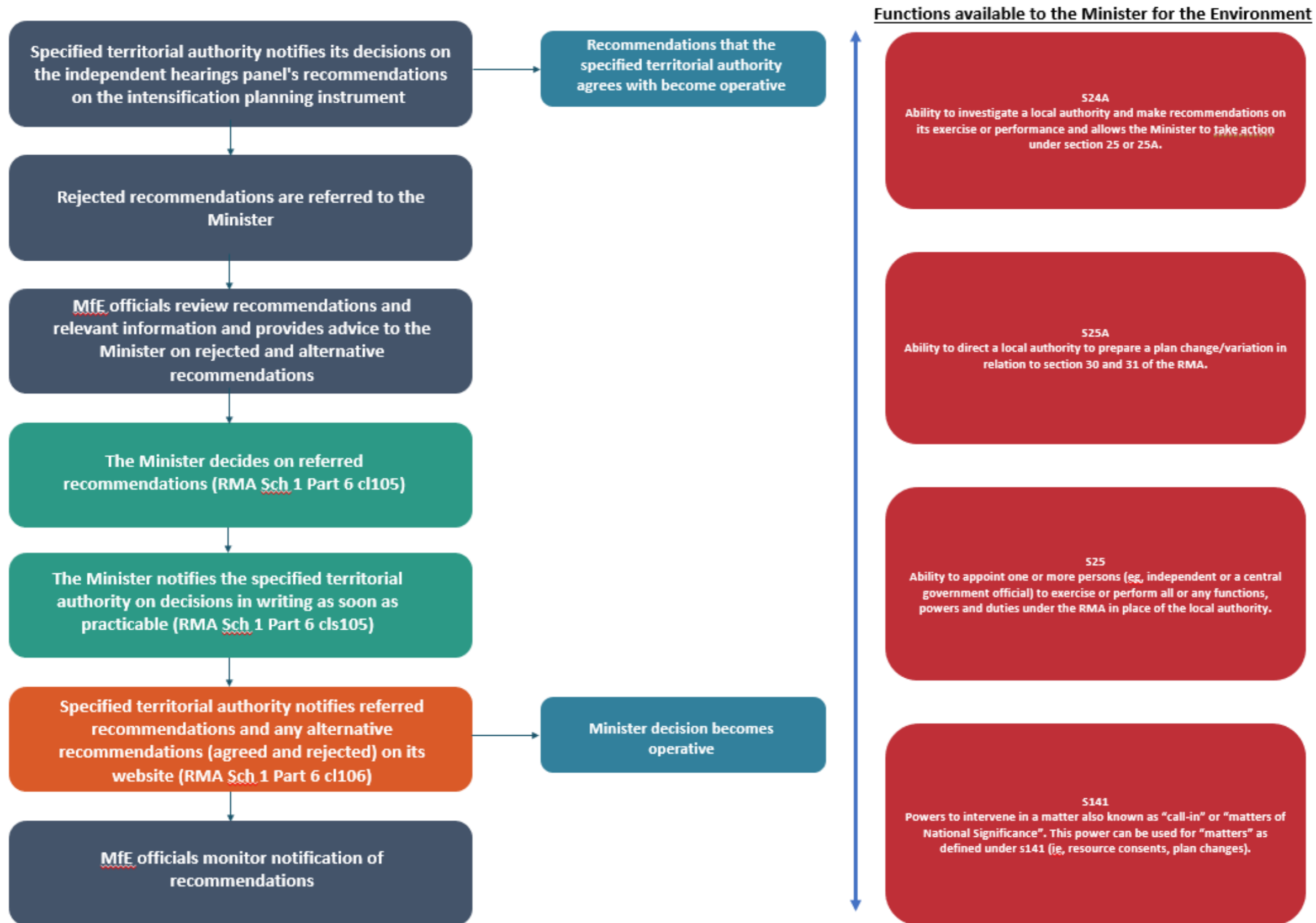
17. We will also advise whether the IHP and council have complied with relevant procedural requirements, and how they have given effect to any direction and statement of expectations made by the Minister under section 80L RMA.
18. You may then decide whether to accept either the IHP's recommendation or the council's alternative recommendation, if provided (Schedule 1, Part 6, cl105(1)). We will provide you with advice as to which option is more consistent with the requirements of the RMA. s 9(2)(h)
19. The intent of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (RMA-EHA) was for the Ministerial decision-making process to be a check and balance where there is disagreement between the IHP and the council.
20. The scope for you to make changes to referred recommendations is limited to altering the IHP or council's alternative recommendation in a way that has a minor effect or to correct minor errors<sup>2</sup> (Sch 1 Part 6 cl105(4)). We would provide you with advice on what constitutes a minor effect or corrects a minor error on a case-by-case basis.
21. The Minister does not have power under the RMA to send any recommendations back to the IHP for amendment (Sch 1 Part 6 cl105(1)).
22. Once the Minister has decided on the recommendations, they must notify decisions and the reasons for them to the council in writing as soon as practicable.
23. Any referred recommendations accepted by the Minister become operative once notified to the council. The council must then publicly notify the Minister's decisions and reasons.

s 9(2)(h)

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<sup>2</sup> This enables the Minister to correct minor technical errors (for example numbering/spelling mistakes/consistency of wording with the other planning provisions) in the recommendations on the provisions of the IPI before them. It can also be used to alter wording in the recommendations in a way which would only have a minor effect in how the provision applies. Whether this applies would need to be considered on a case-by-case basis.

Figure 1: Process for Minister's decisions on rejected recommendations for IPIs.



## Opportunities for Ministerial intervention under the Resource Management Act 1991 (RMA)

25. The Minister for the Environment has a range of functions and powers under the RMA, including:

- i. making decisions on national direction instruments<sup>3</sup>
- ii. monitoring the effect and implementation of the RMA system (including any regulations in force under it) and national policy statements<sup>4</sup>.

26. Further information on these functions and powers is provided in Table 1 below.

Table 1: List of statutory functions and powers of the Minister for the Environment under the RMA

<b>Minister for the Environment's statutory functions and powers</b>	<b>Relevant RMA section</b>	<b>Description of functions and powers</b>
Ability to investigate a local authority and make recommendations on its exercise or performance and allows the Minister to take action under section 25 or 25A.	24A	The Minister has the ability to initiate an investigation into the performance of a local authority in implementing the RMA and, dependent on the outcome of the investigation, can intervene. This may include making recommendations to the local authority on its exercise of functions, duties or powers, or performance.
Ability to direct a local authority to prepare a plan change/variation in relation to section 30 and 31 of the RMA.	25A	The Minister can direct a council to carry out a plan change relating to its required functions in sections 30 and 31. Of specific relevance is section 31(1)(aa) which requires territorial authorities to ensure that there is sufficient development capacity in respect of housing and business land to meet the expected demands of the district.
Ability to appoint one or more persons (eg, independent or a central government official) to exercise or perform all or any functions, powers and duties under the RMA in place of the local authority.	25	Where the Minister finds that the local authority is not exercising or performing any of its functions, powers or duties, the Minister has the ability to appoint 1 or more persons to perform all of those functions, powers or duties in place of the local authority.
Powers to intervene in a matter also known as "call-in" or "matters of National Significance". This power can be used for "matters" as defined	141	The Minister has the authority to intervene in a matter by; making a submission, appointing a project coordinator, requiring a joint hearing, or appoint additional commissioners.

<sup>3</sup> National direction instruments include national policy statements, national environmental standards, national planning standards and other regulations under the RMA.

<sup>4</sup> This power was used for Christchurch City Council's non-notification of an intensification planning instrument.

under s141 (ie, resource consents, plan changes).		Note: this power is not directly related to IPI's but can be used in relation to proposals that affect housing and growth.
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27. The statutory functions and powers summarised above are the responsibility of the Minister for the Environment. You now have the responsibility for making decisions on intensification streamlined planning processes under the RMA. If you wish to utilise any of the above statutory functions and powers you will need to work with the Minister for the Environment.
28. These powers can be used at any point in the plan change process.



## Next steps

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29. We will continue to monitor the implementation of the NPS-UD and the MDRS and where appropriate consult with the Ministry of Housing and Urban Development. We will update you as any issues arise.
30. We are available to meet with you to discuss the contents of this aide memoire.

## Signatures

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*Leah Clark*

Leah Clark

**Acting Manager – Urban Implementation**

1 March 2024

Hon Chris BISHOP

**Minister Responsible for RMA Reform**

**Date**

## Hon. Chris Bishop, Minister for RMA Reform

### Policy Meeting – 16 April 2024 11:30am

**Attendees:**

Hon. Chris Bishop, Minister for RMA Reform

James Palmer, Secretary for the Environment

Nadeine Dommissie, Deputy Secretary, Environmental Management and Adaptation

Liz Moncrieff, General Manager, Urban and Infrastructure Policy

Kevin Guerin, Chief Advisor, Environmental Management and Adaptation

Fiona Newlove, Manager, Mauri Moana

Rebecca Scannell, Programme Director, Environmental Management and Adaptation

s 9(2)(h)

Date	Time	Venue
16 April 2024	11:30 – 12:15pm	6.3 Executive Wing

Agenda	References	Lead	Time
1. <b>Context</b>	Verbal	James Palmer/ Nadeine Dommissie	5 mins
2. Out of Scope	Out of Scope	Liz Moncrieff  Fiona Newlove	20 Min
3. <b>Upcoming IPI decisions</b> <ul style="list-style-type: none"> <li>Discuss decision making process in advance of receiving advice on specific proposals</li> </ul> Out of Scope	Verbal Out of Scope	Rebecca Scannell s 9(2)(h)	20 mins